

§ 103.38

§ 103.38 Subrogated and assigned rights.

The Commissioner will take such action as he deemed appropriate to realize the maximum recovery upon the rights to which the United States is subrogated and the security assigned to the United States. Any amount collected will be deposited in the loan guaranty and insurance fund.

[40 FR 12492, Mar. 19, 1975. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 57 FR 46474, Oct. 8, 1992]

§ 103.39 Cancellation.

The Secretary may cancel the uncollectable portion of any obligation assigned to the United States or rights to which the United States is subrogated and the security assigned to the United States.

[54 FR 34976, Aug. 23, 1989]

§ 103.40 Charges upon liquidation.

Lenders may charge the following against the gross amounts collected from the sale of security in determining the amounts to be claimed under a guaranty certificate or insurance agreement:

(a) Reasonable and necessary expenses for preservation of the security.

(b) Court and attorney costs in a foreclosure or proper judicial proceeding involving the security.

(c) Other reasonable expenses necessary for collecting the debt or for repossession, protection, and liquidation of the security.

(d) Other expenses or fees approved in advance by the Commissioner.

(e) Accrued unpaid interest to the date of judgment and decree of foreclosure or sale, or the date established by the Commissioner that accrued interest shall cease pursuant to §§ 103.36 and 103.37.

§ 103.41 Interest.

Interest rates charged by lenders on guaranteed and insured loans, exclusive of loan service charges, if any, shall not exceed such percent per annum on the principal obligation outstanding as the Commissioner determines to be reasonable and legal at the time a loan is guaranteed or insured, taking into account the range of rates

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prevailing in the private market for similar loans and the risks assumed by the United States. Each loan shall show the rate of interest to be charged. Interest shall be payable at least annually. Once a loan is closed the interest rate may not be increased except when a variable interest rate tied to a specified base rate agreed upon by the borrower and the lender has been approved by the Commissioner. Lenders may not charge interest on loan funds used for payment of loan service charges.

[40 FR 12492, Mar. 19, 1975. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 54 FR 34976, Aug. 23, 1989]

§ 103.42 Interest subsidy.

(a) The Commissioner may pay an interest subsidy to lenders on loans which are guaranteed or insured under this part 103 at rates which are necessary to reduce the interest rate payable by the borrowers to a rate determined in accordance with title I, section 104, of the Indian Financing Act of 1974 (Pub. L. 93-262, 83 Stat. 77). The rate of subsidy will be established by the Commissioner at the time of issuance of a guaranty certificate or insurance agreement on loans requiring approval by the Commissioner. Interest subsidy payments by the United States shall be discontinued on such loans if the lender elects to discontinue the guaranty or insurance or causes the termination of the guaranty or insurance by failure to make premium payments as required by § 103.43, or when one of the following occurs:

(1) The loan is paid in full prior to the expiration of the original term.

(2) The loan is refinanced by a new loan.

(3) The repayment schedule on the principal balance owing is extended beyond the original term, unless an exception is approved by the Commissioner. The interest subsidy shall only be discontinued as to the balance which has been extended beyond the original term of the loan.

(4) The lender on a defaulted loan is reimbursed for a guaranteed or insured loss. The date of the check shall be the date of reimbursement.

(5) Cash flow from the business being financed appears sufficient to pay for